

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District: <u>South Carolina</u>
Name (under which you were convicted): <u>Tequan L. Brown</u>		Docket or Case No.:
Place of Confinement: <u>S.C.D.C.</u> <u>McCormick Correctional Institution</u>		Prisoner No.: <u>341915</u>
Petitioner (include the name under which you were convicted) <u>Tequan L. Brown</u>		Respondent (authorized person having custody of petitioner) <u>v. Charles Williams</u>
The Attorney General of the State of: <u>South Carolina (Alan Wilson)</u>		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Colleton County General Sessions Court
101 Hampton Street Walterboro S.C. 29488

(b) Criminal docket or case number (if you know): 2013-GS-15-1041, 1042, and 1040

2. (a) Date of the judgment of conviction (if you know): June 25th, 2015

(b) Date of sentencing: June 25th, 2015

3. Length of sentence: 1041 (25 yrs) 1042 (5 yrs) 1040 (10 yrs)

4. In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case: 2013-GS-15-1040 -

Obstruction of Justice, 2013-GS-15-1041 - Murder,
and 2013-GS-15-1042 - Poss. of Weapon during Comm
of Vio Crime.

2013-GS-15-1040 (10 yrs), 1041 (25 yrs), and 1042 (5 yrs)
Was and is the sentence for each case.

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)
☐ (2) Guilty ☐ (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: South Carolina Court of Appeals

(b) Docket or case number (if you know): 2015-001447

(c) Result: AFFIRMED

(d) Date of result (if you know): August 26, 2017

(e) Citation to the case (if you know): —

(f) Grounds raised: Appellant is entitled to immunity from Prosecution for murder under the Protection of Persons and Property Act. 2.) The trial court erred in denying Appellant's motion for directed verdict where the undisputed evidence showed that Appellant shot the deceased in lawful self-defense, and that Appellant was without fault in bringing on the difficulty.

(g) Did you seek further review by a higher state court? ☐ Yes ☐ No

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

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(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: Common Pleas (Colleton County)
 (2) Docket or case number (if you know): 18-CP-15-39
 (3) Date of filing (if you know): December 17, 2017
 (4) Nature of the proceeding: Post-Conviction Relief
 (5) Grounds raised: Ineffective Assistance of Counsel
Violation of due Process
Newly / After Discover Evidence. Court lack
Subject matter of Jurisdiction.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☒ No

(3) Third petition: ☐ Yes ☒ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

I did not appeal because I was never afforded a hearing to be heard After waiting over 1 yr. ^{ATTY Gen.} Never Respond

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Ineffective Assistance of Counsel.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel was ineffective in so many ways From not going over the case with me before trial. Not affording me a copy of the discovery, not asking the right questions at trial of the witnesses. Counsel was ineffective for allowing the Court to Sentence me for an Unindicted offense, and not having Defense Witnesses at trial.

(b) If you did not exhaust your state remedies on Ground One, explain why:

I Filed the PCR Application 2 times, and wrote the Colleton County Clerk of Court. The Clerk informed me that the Attorney General's office had to tell them when the case would be called, if at all. I waited over a year waiting to hear from the AG office. Nothing! I wrote the AG's office asking to have a hearing to be heard. Still to no avail

(c) **Direct Appeal of Ground One:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No(2) If you did not raise this issue in your direct appeal, explain why: Never afforded a PCB hearing.(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction Relief MotionName and location of the court where the motion or petition was filed: Colleton County Court of Common Pleas Walterboro S.C.Docket or case number (if you know): 18-CP-15-39Date of the court's decision: Never Afforded a hearing.

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO:Newly / After Discover Evidence

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

After the trial of this case, New evidence came up
Material Facts, not previously presented and heard.

(b) If you did not exhaust your state remedies on Ground Two, explain why:

The Attorney General
never respond to PCR Application.

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

PCR

Name and location of the court where the motion or petition was filed:

Colleton County
Court of Common Pleas Walterboro S.C.

101 Hampton St Walterboro

Docket or case number (if you know): 18-CP-15-39

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : _____

GROUND THREE:

Court lack Subject Matter of Jurisdiction, because petitioner was never indicted for Manslaughter

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner was never indicted for Voluntary Manslaughter nor did he wave, or Waives Presentment to Grand Jury. Petitioner also told trial Attorney that he did not want the trial Judge to give instructions to the Jury for any uncharged offense (Voluntary Manslaughter. Petitioner was indicted for Murder, Petitioner told trial Attorney All or Nothing.

(b) If you did not exhaust your state remedies on Ground Three, explain why: State Attorney General never did a response to Petitioner Application for PCR

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: Appellant Attorney Said that he would not raise this issue in my direct Appeal because it was a PCR issue

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Application for Post-Conviction Relief

Name and location of the court where the motion or petition was filed: Colleton County

Court of Common Pleas

Docket or case number (if you know): 18-CP-15-39

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

Ground #4

→ A) Violation of Due Process
→ GROUND FOUR: B) Petitioner is entitled to immunity from Prosecution for murder under Protection of Persons + Property Act.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Protection of Persons and Property Act Provides immunity to a person who uses deadly force while removing another from his dwelling and who uses deadly force when he reasonably believes it is necessary to prevent imminent death or great bodily injury. Petitioner is entitled to immunity from Prosecution for Murder under the Persons + Property Act because he was without fault in bringing on the difficulty

(b) If you did not exhaust your state remedies on Ground Four, explain why: Ground #4 (A) + (B)

Petitioner Filed PCR App. with the Colleton County Court of Common Pleas. State Attorney General Never Filed a response, or Appoint Counsel

(c) **Direct Appeal of Ground Four:**

Ground #4 (B)

(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

APP. For PCR

Name and location of the court where the motion or petition was filed: Colleton County
Court of Common Pleas, Walterboro S.C. 29488

Docket or case number (if you know): 18-CP-15-39

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

grounds - 1, 2, 3,, Because they were raised in the PCR Application, and the Attorney General Never filed a response thereto,

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Grounds 1, 2, and 3. Because they were raised in the PCR Application, State AG Never filed a response thereto.

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Matthew Lee Walker
319. N. Lucas Street Walterboro S.C. 29488

(b) At arraignment and plea: Mathias G. Chaplin
4511 W. Main St Columbia S.C. 29203

(c) At trial: Matthew Lee Walker
319. N. Lucas Street Walterboro S.C. 29488

(d) At sentencing: Matthew Lee Walker
319. N. Lucas Street Walterboro S.C. 29488

(e) On appeal: John Strom (SCCID)
P.O. Box 11589 Columbia, SC 29211-1589

(f) In any post-conviction proceeding: /

(g) On appeal from any ruling against you in a post-conviction proceeding: /

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☒ Yes ☐ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

U.S. District Court Hollings Judicial Center
83 Broad Street, Charleston S.C. 29401

(b) Give the date the other sentence was imposed: April 3rd, 2017

(c) Give the length of the other sentence: 2 years

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

Petitioner filed PCR with the Colleton County
Clerk of Court after Direct Appeal, waited for
Attorney General response over a year.
Attorney General Never Filed a response, nor
Appointed Counsel to Petitioner.

Petitioner after waiting on response
for over a year is now moving forward
with this petition in Federal court.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

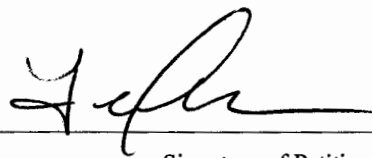
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: Immunity from Prosecution
under the Protection of Persons and Property Act or, in the
Alternative, that this Court issue an Order of Acquittal of his
 or any other relief to which petitioner may be entitled. Convictions,
A hearing for New Trial, or
New Trial.

 Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 1/18/19 (month, date, year).

Executed (signed) on 1/18/19 (date).



 Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

